HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.802 of 2007

Dated:01.02.2007

Between:

Pedapati Brahmanandam and others.

...Petitioner

and

The Revenue Divisional Officer and another.

...Respondent

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.802 of 2007

ORDER:

This Writ Petition is filed assailing the order dated 06.12.2006 in A.I.A.No.3/2006/C passed by the first respondent whereunder the delay of four months eight days in filing the appeal by the second respondent was condoned by the first respondent. Be it also noted that by impugned order, the first respondent also directed that no third party interest should be created in the land admeasuring Acs.8.56 cents in Survey Nos.128/17, 128/18 and 150/1 & 4 situated at Lankalapalem Village of Paravada Mandal in Visakhapatnam District.

The brief fact of the matter is as follows. Petitioners 1 and 2 applied to the Inams Deputy Tahasildar (IDT), Visakhapatnam, for grant of ryotwari patta under Section 7(1) of the Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956 (for short 'the Act'). After conducting enquiry, the IDT issued the patta to petitioners 1 and 2 on 22.06.2006, who in turn sold the entire land under registered sale deed dated 14.09.2006 to petitioners 3 and 4. In the meanwhile, aggrieved by the patta granted by the IDT, the second respondent preferred an appeal under Section 7(2) of the

Act before the first respondent. As there was a delay of four months eight days, the Mandal Revenue Officer moved an application for condonation of delay. The same was allowed by the Revenue Divisional Officer without even issuing notice to the petitioners. Therefore, they filed the present Writ Petition.

After getting instructions, the learned Assistant Government Pleader for Revenue (General-A) submits that no prejudice would be caused to the petitioners by mere condonation of delay in filing the appeal. He, however, does not dispute that no notice was issued to the petitioners before the first respondent passed orders condoning the delay.

There is no denial that petitioners 1 and 2 got ryotwari patta for the entire extent of land. Therefore, they got a right to be heard before any appeal is disposed of or any application to condone the delay in filing the appeal is disposed of. The first respondent certainly erred in allowing the application filed by the second respondent *ex parte*. For this reason, the impugned order cannot be sustained.

Accordingly, the impugned order is set aside, and the matter is remitted to the first respondent, who is directed to issue notice to the petitioners herein regarding the application for condonation of delay, and then pass appropriate orders as to whether delay should be condoned or not.

The Writ Petition is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

01.02.2007
vs